

**AGENDA – January 4, 2000 Business Taxes Committee Meeting**  
**Proposed Revisions to Audit Manual Chapter 1, *Introduction***

<b>Action 1 – Consent</b>  <b>Revisions to Audit Manual Chapter 1</b>	Adopt staff's proposed revisions to Audit Manual Chapter 1.
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**Action 1 – Consent Item**

<b>Item</b>	<b>Comments</b>
<b>Exhibit 1 – Audit Manual Chapter 1 revisions</b>	Adopt staff's proposed revisions. No response or input was received from industry.

Issue Paper Number 99 - 060



- ☐ Board Meeting
- ☒ Business Taxes Committee
- ☐ Customer Services Committee
- ☐ Legislative Committee
- ☐ Property Tax Committee
- ☐ Technology and Administration Committee
- ☐ Other

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## **PROPOSED REVISIONS TO AUDIT MANUAL**

### **CHAPTER 1, *INTRODUCTION***

#### **I. Issue**

Should staff's proposed revisions to Chapter 1, Introduction, be incorporated into the Sales and Use Tax Department's Audit Manual?

#### **II. Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 1 of the Audit Manual, as illustrated in the attached draft of Chapter 1 (Exhibit 1).

#### **III. Other Alternative(s) Considered**

Make no changes to Chapter 1.

Issue Paper Number 99 - 060

## **IV. Background**

The Audit Manual (AM) is the State Board of Equalization's (Board) guide for conducting sales and use tax audits. The thirteen chapters contained within the AM incorporate procedures and techniques that have evolved over the years and have been proven to be sound and practical. Field auditors are required to carefully study these procedures and techniques in order to ensure that audits are conducted and reports are prepared in a clear and uniform manner consistent with approved audit policies and procedures.

Chapter 1, Introduction, provides an introduction to the AM by identifying the Board's mission and philosophy, outlining tax audit policies, and providing standards of competency for an experienced auditor. This chapter stresses the Board's commitment to service and accountability to the public, in addition to discussing the restrictions on divulging confidential information and the guidelines for releasing information to other governmental agencies and taxpayer representatives. Chapter 1 also outlines the general procedures for Board correspondence and details the guidelines pertaining to Revenue and Taxation Code section 6596, Excusable Delay-Reliance on Advice. The last revisions to Chapter 1 were published in January 1995.

The proposed revisions to Chapter 1, *Introduction*, of the AM that are recommended for adoption by the Business Taxes Committee will reflect Board-wide policy, even though other departments already follow guidelines specific to their tax or fee program. Therefore, other departments will implement the proposed revisions adopted by the Board unless superseded by existing statutory, regulatory, or Board decisions.

### **Discussion – Proposed Revisions to Chapter 1**

#### Mission Statement and Philosophy (AM Section 0101.03)

The mission statement of the Board was first established in 1988. On August 26, 1999, the Board approved a new mission statement and operating philosophy designed to more clearly state the purpose of the Board of Equalization. The new mission statement and operating philosophy are included in the revisions proposed to Chapter 1.

#### Professional Status of Tax Auditor (AM Section 0101.20(C))

The Board, in its commitment to service and accountability to the public, has established ethical principles to encourage employees to rise above that which is merely acceptable and strive for excellence. Additions proposed to AM Section 101.20(C) reflect the Board's ongoing responsibility to provide that all of its official activities and contacts with the public reflect the highest ethical and moral standards.

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Section 6596 Guidelines for Taxpayer Correspondence (FAM Section 0101.75)

Revenue and Taxation Code section 6596 provides relief from tax, penalty, and interest for taxpayers that reasonably rely on written advice from the Board if certain conditions are met. Although section 6596 is discussed generally in the current version of Chapter 1, staff is proposing this section be expanded to incorporate the provisions of Regulation 1705, *Relief From Liability*, relating to written advice provided in a prior audit, and Operations Memo 1012, *Section 6596 Guidelines (Taxpayer Correspondence)*, regarding specific statements that need to be included in the Board's response to taxpayers' written requests for tax advice.

## **V. Staff Recommendation**

### **A. Description of the Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 1 of the Audit Manual, as illustrated in the attached draft of Chapter 1 (Exhibit 1).

### **B. Pros of the Staff Recommendation**

- Provides consistency with current audit policies and procedures.
- Clarifies the auditor's role and responsibilities during Sales and Use Tax audits.
- Incorporates established ethical principles.

### **C. Cons of the Staff Recommendation**

None.

### **D. Statutory or Regulatory Change**

No statutory or regulatory change is required.

### **E. Administrative Impact**

None.

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**F. Fiscal Impact**

**1. Cost Impact**

None.

**2. Revenue Impact**

None.

**G. Taxpayer/Customer Impact**

Clarification of policies, procedures and the role and responsibilities of auditors is expected to improve taxpayer/customer relations.

**H. Critical Time Frames**

None.

**VI. Alternative**

**A. Description of the Alternative**

Make no changes to Audit Manual Chapter 1.

**B. Pros of the Alternative**

None.

**C. Cons of the Alternative**

- Audit Manual Chapter 1 would not be consistent with current policies and procedures.

**D. Statutory or Regulatory Change**

No statutory or regulatory change is required.

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**E. Administrative Impact**

None.

**F. Fiscal Impact**

None.

**1. Cost Impact**

None.

**2. Revenue Impact**

None.

**G. Taxpayer/Customer Impact**

None.

**H. Critical Time Frames**

None.

Prepared by: Program Planning Division, Sales and Use Tax Department

Current as of: December 17, 1999



BOARD OF EQUALIZATION  
**REVENUE ESTIMATE**

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PROPOSED REVISIONS TO AUDIT MANUAL CHAPTER 1,  
*INTRODUCTION*

**Staff Recommendation**

Staff recommends that the proposed revisions be incorporated into Chapter 1 of the Audit Manual, as illustrated in the draft of Chapter 1 (Exhibit 1 of the issue paper).

**Background, Methodology, and Assumptions**

There is nothing in the proposed revisions to Chapter 1 of the Audit Manual that would impact revenues.

**Revenue Summary**

The staff recommendation has no revenue effect.

**Preparation**

This revenue estimate was prepared by David E. Hayes, Statistics Section, Agency Planning and Research Division. This revenue estimate was reviewed by Ms. Laurie Frost, Chief, Agency Planning and Research Division and Ms. Freda Orendt-Evans, Program Planning Manager, Sales and Use Tax Department. For additional information, please contact Mr. Hayes at (916) 445-0840.

Current as of December 17, 1999

AUDIT MANUAL

Chapter 1

*Introduction*

*Sales and Use Tax*

Sales and Use Tax Department



STATE BOARD  
OF EQUALIZATION

January 2000



## CHAPTER 1

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## CHAPTER 1 INTRODUCTION

### 0101.00

#### MISSION STATEMENT AND PHILOSOPHY

0101.03

The ~~dual~~ mission of the State Board of Equalization ~~in the administration and collection of taxes~~ is to serve the public through fair, effective, and efficient tax administration.

- ~~Provide informative and responsive services to the taxpayer.~~
- ~~Provide fair, firm and uniform treatment of the taxpayer and to perform these functions with quality and efficiency.~~

The State Board of Equalization is committed to a philosophy of service and accountability to the public, whose interest is best served through sound administration of the tax laws. We believe this can be most effectively accomplished through programs that enable and encourage people to voluntarily comply with the laws. ~~Providing quality services, products,~~ The Board's audit program is one of many ways in which we provide assistance and information to the public is essential, as is while, at the same time, providing a fair and firm enforcement program that assures the public that everyone is paying their share of taxes. ensures that taxes are reported properly.

#### PURPOSE OF AUDIT MANUAL

0101.05

This manual is ~~to be used as a guide in the making~~ conducting of sales and use tax ~~and use fuel tax~~ audits. It incorporates procedures and techniques that have evolved over a period of years and which that have proved to be sound and practical. ~~It should be carefully studied by a~~ All members of the audit staff should carefully study it in order for that audits to will be conducted and reports prepared in a uniform manner consistent with approved tax auditing practices.

The manual cannot be a substitute for experience, training in accounting and auditing, or good judgment and active supervision. The procedures outlined in the manual are not inflexible. *However, all sections of Chapter 2, Field Audit Reports, and the italicized portions of the other chapters are to be followed exactly. The audit supervisor must approve any deviation from these instructions.*

#### TAX AUDIT POLICIES

0101.20

Field auditing is of great importance in efficient administration of self-assessed taxes such as those provided by the California business tax laws. It assists in ~~obtaining~~ ensuring uniformity of enforcement ~~and to the end that taxpayers pay neither more nor less tax than the laws contemplate.~~ It detects and aids in the timely correction of reporting errors. The audit program of the Sales and Use Tax Department has resulted in the correction of tax underpayments and overpayments of many millions of dollars. In addition, there are educational benefits to the taxpayer which cannot be readily measured in terms of dollars but which undoubtedly are responsible for a large portion of the self-declared tax that would not otherwise ~~have been~~ paid. On November 17, 1954, the Board by resolution adopted the original version of the following statement of tax audit policies: (A-E below). It should be noted that this resolution has accurately reflected the intent and direction of the Board from 1954 through the present.

## A. PURPOSE OF TAX AUDITING

Because most of the taxes administered by the Board are self-assessed by the taxpayers, an audit program is essential to provide for the following objectives:

- To assure all citizens of the state that the tax is being enforced uniformly;
- To deter tax evasion and carelessness in self-assessments; and
- To promote accuracy in self-assessments through aid extended to taxpayers with respect to the interpretation of the law and rules and regulations adopted thereunder.

## B. RELATIONSHIP OF TAXPAYER AND TAX AUDITOR

Consistent with the purpose of tax auditing as ~~above-outlined above~~, there is no occasion for the auditor to harass taxpayers or to ~~impress them with the thought~~ give the impression that the object of the audit is to find something wrong with their self-assessments. The taxpayer should be assured that the auditor's function is to determine whether the amount of tax has been reported correctly. The auditor should aid the taxpayer in gaining a correct understanding of the law and ~~should~~ demonstrate that we are as willing to recommend a refund of an overpayment as we are to propose a deficiency determination. Care should be taken to inform taxpayers regarding their rights and privileges in connection with such determinations. The tax auditor should keep in mind constantly that it is our policy to administer the law fairly and uniformly, with minimum annoyance to taxpayers and interference in their business affairs, as well as at the lowest cost consistent with good tax administration.

## C. PROFESSIONAL STATUS OF TAX AUDITORS

Tax auditors are engaged in professional assignments. They are called upon to exercise their highest skill and best judgment ~~and most impartial judgments~~ throughout the performance of their official duties. All audits should be made in accordance with approved auditing and accounting principles. ~~To assure that audit methods and techniques are of a type appropriate to a specific assignment,~~ Sound professional judgment must be exercised in making tests that are representative in scope and character; so that to ensure that the results are indicative-representative of the actual business operations during the audit period covered by the audit.

~~Under all circumstances,~~ Tax auditors are expected to observe the rules of conduct of their profession and the Board of Equalization's guidelines set forth in the pamphlet, *Ethics: Guidelines for Professional Conduct*. Auditors are also expected and to perform their duties with dignity and courtesy regardless of the industry being audited, the size of the business, the sophistication of the records, or any other consideration. The Board can maintain the public's confidence only to the extent that all of our official activities and contacts with the public reflect the highest ethical and moral standards. Auditors must perform their duties with integrity and propriety, and auditors must do all in their power to ensure that their words or actions cannot be interpreted otherwise.

(Cont.) 0101.20

**D. MEASUREMENT OF AN AUDITOR'S ABILITY EVALUATION OF AN AUDITOR'S SKILLS**

In determining the ~~ability skills~~ of an auditor, the quantity and quality of the work will be evaluated in relation to these ~~objectives~~ questions:

- Is the auditor accurate and efficient in the analysis of taxpayer's records to determine whether tax liability has been reported correctly?
- Does the auditor explain to the taxpayer in clear terms the amounts of overpayment or underpayment developed-identified by audit and provide a complete set of audit work papers so that the taxpayer is afforded a good understanding of what constitutes correct tax reporting?
- Does the auditor use sound professional judgment and exercise ~~constant~~ alertness to determine the ~~best~~ most appropriate type of audit ~~appropriate~~ for a specific assignment?

An auditor's ~~ability skill~~ is not measured by the additional understatements and overstatements ~~which the audits disclosed in his/her audits,~~ and ~~u~~Under no circumstances ~~should~~ will an auditor's performance be rated upon the basis of recovery, which is prohibited by law. Additionally, aged audits and other audit program-level performance measurements established by Board management to evaluate district offices are not designed nor should they be used for evaluating an individual auditor's performance. This does not mean that an auditor may waste time on assignments by using ineffective audit techniques and performing nonessential tasks and still receive a satisfactory rating. It does mean that if the auditor works diligently, uses the kind of verification methods best fitted to the particular assignment, and performs a professional job with a reasonable expenditure of time, the work performance will be satisfactory.

**E. IMPLEMENTATION OF AUDITING POLICY**

The Program Planning Manager, Chief of Field Operations~~principal tax auditor~~ and ~~d~~District tax aAdministrators have the responsibility to carry out effectively the policy set forth in this statement. They will issue such instructions as it is deemed necessary to implement this policy.

**STANDARDS OF COMPETENCY FOR AN EXPERIENCED AUDITOR 0101.25****A. BASIC KNOWLEDGE AND THE ABILITY TO APPLY SUCH KNOWLEDGE IT TO PRACTICAL SITUATIONS:**

- Thorough knowledge of accounting principles and systems.
- Thorough knowledge of auditing procedures and techniques.
- A general knowledge of business law, practices and procedures.

**B. SPECIAL KNOWLEDGE AND THE ABILITY TO APPLY SUCH KNOWLEDGE ~~IT~~ TO PRACTICAL SITUATIONS:**

- Knowledge of the California Revenue and Taxation Code as it pertains to sales ~~tax,~~ and use tax, ~~and use fuel tax.~~
- Thorough knowledge of the authorized rules and regulations of the Board of Equalization.
- Knowledge of established administrative policies.
- Knowledge of special techniques peculiar to tax auditing and sales and use tax administration.
- Effective use of tools, manuals, annotations, and directives.

**C. ABILITY TO PREPARE PROFESSIONAL AUDIT REPORTS WITH PARTICULAR REFERENCE TO:**

- Use of computers ~~Legibility of writing.~~
- Completeness of reports.
- Clear and concise, well-organized comments with headings and captions.
- A working paper technique which is readily understood by others.
- Use of auditing procedures consistent with acceptable standards.
- Accuracy in comments, facts, and calculations.
- Ability to make decisions commensurate with duties and responsibilities.
- Ability to clearly explain and support, verbally and in writing, audit procedures and findings. Such explanations must be readily understood by supervisors, reviewers, Appeals officers, taxpayers, accountants, and attorneys.

**D. JUDICIOUS USE OF TIME BY:**

- Proper use of audit short-cut techniques.
- Good organization and planning of work.
- Recognition of the “Concept of Materiality” in ~~programming—audit assignments~~ making audit decisions.

**E. GENERAL WORK HABITS:**

- Good general and business-like appearance.
- Promptness in keeping appointments.
- Promptness in completing and submitting assignments.

**F. ATTITUDE:**

- Enthusiasm in work.
- Willingness to learn.
- Open-minded approach to assignments.
- Ability to accept responsibility ~~and/or direction~~.
- Ability and willingness to accept direction.

**G. USE OF INITIATIVE, INQUISITIVENESS, AND INGENUITY:**

- Ability to adapt working habits and audit practices to differing environments.
- Alertness to recognize situations involving possible tax liability even though not directly concerned with a specific assignment.
- Willingness and ability to do research work on complex audit problems.
- Willingness and ability ~~Developing~~ to develop alternative approaches to particular problems.

**H. RELATIONSHIPS WITH PEOPLE:**

- Ability to get along ~~with~~ and work with fellow employees, supervisors, and staff from other districts and units.
- Ability to get along ~~with~~ and work with taxpayers and their employees, accountants, and attorneys.
- Ability to instill confidence.
- Ability to maintain an atmosphere of dignity and ~~business~~ professionalism consistent with the auditing profession.
- As a representative of the Board, the ability to discuss with the public such things as:
  - ◆ The structure, history, mission, philosophy, and functions of the Board.
  - ◆ The various tax programs, generally.
  - ◆ Taxpayer benefits from tax revenues.
  - ◆ Some background knowledge of legislative intent in enacting law changes, exclusions, and exemptions.

**KNOWLEDGE OF THE LAW****0101.30**

Auditors must be familiar with the provisions and requirements of the laws they are assisting to administer, which are:

**Division 2, Part 1**, of the Revenue and Taxation Code, known as the Sales and Use Tax Law.

**Division 2, Part 1.5**, of the Revenue and Taxation Code, known as the Bradley-Burns Uniform Local Sales and Use Tax Law.

(Cont.) 0101.30

**Division 2, Part 1.6**, of the Revenue and Taxation Code, known as the Transactions and Use Tax Law.

**Division 2, Part 1.7**, of the Revenue and Taxation Code, known as the Additional Local Taxes Law.

~~**Division 2, Part 3**, of the Revenue and Taxation Code, known as the Use Fuel Tax Law.~~

## REGULATIONS OF THE BOARD

0101.35

Regulations promulgated by the Board have the effect of law and are issued ~~for as~~ guidance ~~of for~~ the staff in interpreting the law. Exhibit ~~A1~~ lists all free Sales and Use Tax and Use Fuel Tax publications available to the public as well as publications available at cost. Publication ~~amphlet~~ 7751 contains a complete list of Board publications available to the public, as well as the address for ordering “cost” publications. Many Board publications are also available on the Internet at [www.boe.ca.gov](http://www.boe.ca.gov).

## BUSINESS TAXES LAW GUIDE

0101.45

All auditors are provided ~~with~~ copies of the Business Taxes Law Guide ~~that~~which contains, in loose-leaf form, ~~copies of the laws, regulations, court decisions and summaries of the conclusions reached in selected legal rulings of counsel~~ an index and digest of opinions rendered by the legal staff (annotations). The Business Taxes Law Guide is also available on CD ROM and on the Internet.

*These hardcopy volumes are the property of the Board and the person to whom they are issued is responsible for their safekeeping.*

## TERMINOLOGY

0101.50

The definition of the word “taxpayer” will be assumed to include “seller” or “retailer” as defined in the Sales and Use Tax Law, ~~and “user” or “vendor” as defined in the Use Fuel Tax Law.~~

In those cases where it is necessary to distinguish between the laws, the following designations will be used:

**S** - Sales and Use Tax Law

**TU** - Transaction and Use Tax Law

**LT** - Local Sales and Use Tax Law

~~**UF** - Use Fuel Tax Law~~

~~**VU** - Use Fuel Tax Law Vendor~~

In addition, see Exhibit ~~B2~~ “Tax Code Table” for a listing of sales and use tax ~~and use fuel tax~~ program codes used to assign tax code account number prefixes.

## EMPLOYEE NOT TO SIGN TAXPAYERS DOCUMENTS

0101.55

Employees will not sign stipulations, agreements, or other documents offered by taxpayers or their representatives. Board printed forms or facsimiles thereof will be used.



**ACCEPTANCE OF PAYMENTS BY AUDITORS****0101.57**

Auditors must **not** accept payments in the office or field. If a taxpayer in the office wishes to make a payment, he or she must be taken to the office cashier for processing of the funds. In instances where a taxpayer in the field insists on making an immediate payment of an *audit liability just established*, the auditor may call the field office and request that a tax representative contact the taxpayer and arrange for payment of the liability. *To the extent reasonable*, the tax representative may receipt the payment at the taxpayer's place of business. If this is impractical, the taxpayer should be given an envelope (not postage paid) bearing the local Board office address. Under no circumstances ~~will~~ should a tax representative be ~~requested to pick up returns or prepayment forms~~ "as a service to the taxpayer" as it is the taxpayer's responsibility to file and pay in the prescribed manner.

**TAXPAYERS' BILL OF RIGHTS****0101.60**

The Harris-Katz California Taxpayers' Bill of Rights was enacted on January 1, 1989 and added Sections 7080 through 7099 and ~~also~~ Section 7156 to the Sales and Use Tax Law. Effective January 1, 1999 Sections 6593.5, 6832, 6964 and 7094.1 were added. The ~~bill~~ law guarantees that the rights, privacy, and property of taxpayers ~~are will be~~ protected during the course of assessment and collection activity. Tax auditors should be familiar with the provisions of the ~~bill~~ law. Publication 70, which explains procedures, remedies, rights, and obligations of taxpayers and the Board, must be and make provided available to the taxpayer's at the beginning of every audit. ~~information explaining procedures, remedies, rights, and obligations of taxpayers and the Board.~~

**CONFIDENTIAL INFORMATION****0101.65**

The Government Code and most of the business tax laws contain provisions making it illegal to divulge to any unauthorized persons information regarding a taxpayer's affairs obtained through audit investigation or from returns or reports. Information of this nature contained in Board records must be treated in strict confidence. The only exception is when ~~that~~ the Governor, by general or special order, ~~may~~ authorizes ~~the examination by~~ other state officers, tax officers of another state, ~~by~~ the Federal Government (if a reciprocal agreement exists), or ~~by~~ any other person, to examine ~~of~~ the records maintained by the Board. Requests for information of a confidential nature should be referred to a supervisor.

Under the Sales and Use Tax program, all but the following information is confidential: account number, business name, names of general partners, business and mailing addresses, business code, ownership designation, start and close-out dates, and tax area. You should be aware that nonconfidential information in other business tax and fee programs differs from that in the Sales and Use Tax program. Generally speaking, however, the only information concerning a taxpayer not deemed to be of a confidential nature is that which is printed on the face of the particular permit or license held by the taxpayer. This consists of the taxpayer's name, business name (if any), address and account number.

Requests by a taxpayer's representatives for information and records under the Information Practices Act and the California Public Records Act will be guided by the following policy:

## (Cont.) 0101.65

- A taxpayer's representative may examine and/or receive copies of the same information the taxpayer is entitled to, provided the representative presents a written authorization from the taxpayer. This includes copies of all correspondence and, if involved with an audit, petition for redetermination or claim for refund, a copy of the report findings. (Exceptions to the written authorization rule are made in the case of attorneys and certified public accountants who request the information in writing and/or who are known to represent the taxpayer.)
- Written authorization is not required when supplying copies of working papers on an audit to the taxpayer's bookkeeper or accountant when the taxpayer ~~has~~ directed the Board to contact ~~their~~ his/her bookkeeper or accountant to conduct an audit and the audit was made based on information supplied by the bookkeeper or accountant.
- Notarization of written authorizations is not a requirement.

## TAXPAYER CORRESPONDENCE IN GENERAL

0101.70

Correspondence to taxpayers, organizations, and the general public will be on ~~letterhead of the Board's~~ Equalization letterhead. All such correspondence will contain the signature, typewritten name, working title and appropriate telephone number of the authorized signer. ~~Please refer to the Writers Manual for additional guidance on correspondence formats.~~

Taxpayer correspondence must serve as a complete source of the questions asked, the facts presented, and the answer given. The facts and the taxpayer's question(s) should be restated or briefly summarized. Any additional facts obtained from the taxpayer after receipt of the original letter ~~will~~ should be included in the response and ~~will~~ should be identified as to the source. Appropriate modification or recision letters should be sent to the taxpayer when it is determined that the tax advice as applied to the facts given by the Board ~~was~~ is incomplete or incorrect. ~~All letters involving tax questions will be reviewed by District Administrators and Headquarters' Supervisors~~ will review all letters involving tax questions written by their staff to ensure that the information is correct and in the proper format.

Taxpayers who verbally request tax information are to be advised that, although an answer to their question is being provided, they may also wish to put their question in writing so that they may receive a written response for their records.

## SECTION 6596 GUIDELINES FOR TAXPAYER CORRESPONDENCE

0101.75

The Board is empowered to relieve taxpayers of tax, interest, or penalty where the Board finds that the failure to make a timely return or prepayment was due to the taxpayer's reasonable reliance on written advice from the Board. See Regulation 1705 for further information. The following constitutes written advice by the Board:

- ADVICE PROVIDED IN A WRITTEN COMMUNICATION. ~~Relief is provided where there has been~~ Written advice by the Board to a taxpayer in response to a taxpayer's specific written inquiry request, or from his or her representative seeking relief from liability will constitute written advice that can be relied on for Section 6596. To be considered a specific written inquiry, representatives must in writing, from a specifically identified the specific taxpayer for whom, in turn, the advice is requested. Such an inquiry must also describe fully describe the specific facts and circumstances of the activity or transactions for which the advice was requested.

## (Cont.) 0101.75

In responding to accountants, attorneys, or other taxpayer representatives ~~in situations where the representative has the name of the taxpayer is not divulged the name of the taxpayer~~, the writer will ask that the representative divulge the name and permit number of the taxpayer to enable the Board to maintain appropriate records with respect to the information provided. The taxpayer's name and permit number will be referenced in the Board's response.

Tax advice to trade associations, ~~or~~ taxpayer representatives failing to identify their clients, and/or taxpayers whose questions are vague or general in nature ~~should~~must include ~~the~~a following statement:

~~indicating that~~The answer given is intended to provide general information regarding the application of the tax; and will not serve as a basis for relief of liability under Section 6596.

If individual taxpayers are identified, but background information is incomplete, the taxpayer should be encouraged to write again setting forth the specific facts. ~~The s~~Staff is encouraged not to make presumptions; ~~h~~However, should it become necessary to do so, they should be clearly identified as such in the letter.

Written advice may only be relied upon by the taxpayer to which it was originally issued or a legal or statutory successor to that taxpayer. Written advice that may serve for relief under Section 6596 must include the following statement:

The opinion expressed in this letter may only be relied upon for relief under Section 6596 of the Sales and Use Tax Law by (state taxpayer's name). Any person seeking relief under this section will be required to furnish a copy of the original written inquiry to the Board and a copy of this written advice.

- **WRITTEN ADVICE PROVIDED IN A PRIOR AUDIT.** Presentation of a taxpayer's books and records to an auditor for examination is considered a written request for the audit report. If a prior audit report of the person requesting relief contains written evidence that demonstrates the issue in question was examined, either in a sample or census (actual) review, such evidence will be considered "written advice from the Board." The facts and conditions in the current situation at hand must be the same as those during the prior audit. Audit comments, schedules, and other writings prepared by the Board that become part of the audit work papers which reflect that the activity or transaction in question was properly reported and no amount was due are sufficient for a finding of relief from liability, unless it can be shown that the person seeking relief knew such advice was erroneous.

Written advice from the Board that was received during a prior audit of a taxpayer under the above conditions may be relied upon by the taxpayer audited or by a legal or statutory successor to that person.

## (Cont.) 0101.75

A record of the number of letters received and responded to will be maintained by District Administrators and Headquarters' Supervisors. A monthly report along with copies of all letters confirming transactions of an exempt nature, modification/recision letters, and the taxpayer's original inquiry letter will be forwarded to the Audit Evaluation and Planning Section for final review of the letters' accuracy. Any correspondence requiring adjustment will be returned to the originating party. Correspondence not providing exemption advice, which would otherwise entitle a taxpayer to relief under Section 6596, should not be forwarded to the Audit Evaluation and Planning Section.

When an opinion has been issued, and it is subsequently determined that the tax advice as applied to the facts given was incomplete or incorrect, appropriate modification or recision letters should be sent to the taxpayer. Written advice may also be invalidated by a change in statute or constitutional law, a change in the Sales and Use Tax Regulations, or a final decision of a court, rendering the Board's earlier written advice invalid.

## REWARD PROGRAM

0101.80

Section 7060 of the Sales and Use Tax Law authorizes rewards for information leading to the collection of unreported or underreported sales and use taxes. This program, however, has not been ~~implemented or~~ funded.

Individuals occasionally indicate that they have information ~~which that~~ would enable the Board ~~of Equalization~~ to recover sales tax revenues. Auditors should advise these individuals that there is currently no ~~provision-state funding which that~~ would enable us to provide a reward. However, auditors may attempt to obtain such information by appealing to the person's sense of duty as a good citizen. The auditor should advise anyone providing information that they can request that their identity not be divulged.

The person providing the information should also be made aware that ~~confidentiality/privacy~~ laws prevent the Board from ~~divulging to them~~ the results of any subsequent investigation ~~to them~~.

## INFORMANT CONTACT PROCEDURES

0101.85

Under the Information Practice Act (Civil Code a 1798 et seq.), all information provided by an informant, as well as the informant's name, ~~shall may be~~ withheld during the investigation of criminal ~~and or~~ non-criminal matters if disclosure of the information would compromise the investigation or a related investigation. **Once the investigation has been completed,** information relating to the identity of the informant may continue to be withheld provided the informant was promised confidentiality. A promise of confidentiality shall be documented in writing. For purposes of this paragraph, the investigation will be considered complete when a determination is issued, regardless of the fact that the taxpayer subsequently petitions for a redetermination. If the informant was not promised confidentiality, then the informant's identity must be divulged upon request by the taxpayer about which the information pertains. While the Information Practices Act is only applicable to individual taxpayers, as a policy matter, the Board has extended the protection of the Act to all taxpayers.

Whether or not confidentiality is promised, the information provided by the informant must be divulged if a request is made by the taxpayer, but only after the investigation is completed. Additionally, staff may provide either an exact copy of the information provided by the informant, with the informant's identity deleted if confidentiality has been promised or a comprehensive summary of the substance of the information. If the informant's identity can be readily determined from an exact copy of the information, then it would be preferable to provide a comprehensive summary. If a comprehensive summary is provided, staff should pay particular attention to providing all personal information that could affect the taxpayer's reputation, rights, benefits, or privileges.

Even though an informant is promised confidentiality under the Information Practices Act, occasionally other statutes and case law may require disclosure of the informant's name. For example, circumstances involving discovery proceedings related to pending litigation or a defendant's right to confront his/her accuser when criminal charges have been filed may require disclosure of the informant's name. Such matters shall be referred to the Board's legal staff for decision and response.

The following guidelines should be followed to ensure that the informants are aware of their rights:

- **INITIAL CONTACT.** Generally, staff should not encourage informants to request confidentiality. Where If an informant contacts the Board by phone or in person, and asks to remain confidential, that request and the promise of confidentiality should be documented in writing. staff should immediately advise the informant that information regarding a taxpayer's alleged fraudulent activity may be submitted anonymously, under a promise of confidentiality with respect to the informant's identity, or without a promise of confidentiality regarding the informant's identity. The informant should be made fully aware of the consequences of each prior to continuing. This information should be presented to the informant in such a manner so as not to discourage them from providing the information. The informant should be advised that under certain circumstances, such as a court proceeding, the Board may be unable to maintain the informant's confidentiality.

Where the informant contacts the Board in writing, confidentiality should be maintained if so requested. ~~If the document is silent regarding confidentiality and the informant is clearly identified, then the staff may wish to contact the informant to determine whether or not his/her identity should be confidential.~~

The Board may accept information that is provided anonymously.

- **DOCUMENTS.** In those cases where the informant provides his/her name, any documents containing the informant's allegations should clearly state whether or not his/her name was provided with the promise of confidentiality. If the information was provided with the promise of confidentiality, then to ensure against the improper release of the informant's identity it is imperative that staff clearly print in red "**INFORMANT-CONFIDENTIAL**" on the top of such documents. In addition, when the document is prepared by staff, the informant's name as well as other information which should not be released to protect the identity of the informant (i.e., telephone number, address, etc.) should be placed in one central location and circled in red. He or she should thereafter be referred to in the document as "the informant."

**(Cont.) 0101.85**

- **INVESTIGATION.** During an investigation, if a taxpayer or his/her authorized representative requests file material, then we must provide him/her with a copy of all items in the file, with the exception of confidential information such as an informant's name or the information received from the informant. However, in doing so, we must inform the taxpayer that such information exists and is being withheld until completion of the investigation as required by the Information Practices Act. Staff should not provide details of the information provided by the informant during the investigation.
- **FOLLOWING THE INVESTIGATION.** Once the investigation is complete, we will withhold the identity of the informant if there was a promise of confidentiality; otherwise, we must disclose his/her identity. Regardless of whether or not confidentiality was promised the informant, the taxpayer is entitled to either an exact copy of the information with only such deletions as are necessary to protect the informant's promised confidentiality or a comprehensive summary of the substance of the material.
- **COURT PROCEEDINGS.** When the Board's records are subpoenaed as the result of court proceedings such as a discovery order or a criminal investigation where the defendant has the right to confront his/her accuser, the matter should be referred to the Board's legal staff for a decision.

## **Table of Exhibits**

<b>Publications of the Board of Equalization .....</b>	<b>Exhibit 1</b>
<b>Tax Code Table for Sales and Use Taxes .....</b>	<b>Exhibit 2</b>

# PUBLICATIONS OF THE BOARD OF EQUALIZATION

Publications Available Free of Charge

Chapter 1

Exhibit 1

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51	Guide to Board of Equalization Services <sup>1</sup>		

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74	Closing Out Your Seller's Permit <sup>1</sup>	109	Are Your Internet Sales Taxable?

<sup>1</sup> Available in Chinese (51C)

<sup>2</sup> Available in Spanish (#-S); Chinese (#-C); Korean (#-K); and Vietnamese (#-V)

<sup>3</sup> Available in Spanish (25S, 32S, 50S, 50A-S, 76S, 74S)

<sup>4</sup> Available in Spanish (22S) and Korean (22V)



## Tax Tip Publications for Specific Industries

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22	Tax Tips for the Dining and Beverage Industry <sup>4</sup>	37	Tax Tips for the Graphic Arts Industry
24	Tax Tips for Liquor Stores	38	Tax Tips for Advertising Agencies
25	Tax Tips for Auto Repair Garages and Service Stations <sup>3</sup>	40	Tax Tips for the Watercraft Industry
27	Tax Tips for Drug Stores	45	Tax Tips for Hospitals
31	Tax Tips for Grocery Stores <sup>2</sup>	47	Tax Tips for Mobilehomes and Factory-Built Housing
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6	Motor Vehicle Fuel License Tax Law	50	Guide to the International Fuel Tax Agreement <sup>1</sup>
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<sup>1</sup> Available in Chinese (51C)

<sup>2</sup> Available in Spanish (#-S); Chinese (#-C); Korean (#-K); and Vietnamese (#-V)

<sup>3</sup> Available in Spanish (25S, 32S, 50S, 50A-S, 76S, 74S)

<sup>4</sup> Available in Spanish (22S) and Korean (22V)

**Individual Copies Available Free of Charge**

Property Tax Rules  
Sales and Use Tax Regulations  
Uniform Local Sales and Use Tax Regulations  
Transactions (Sales) and Use Tax Regulations  
Motor vehicle Fuel License Tax Regulations  
Use Fuel Tax Regulations  
Alcoholic Beverage Tax Regulations  
Cigarette and Tobacco Products Tax Regulations  
Energy Resources Surcharge Regulations  
Emergency Telephone Users Surcharge Regulations

Hearing Procedures of the State Board of Equalization ("Rules of Practice")  
State of California Sales Tax Reimbursement Schedules  
Annual Calendar of Board Meetings  
Annual Report of the State Board of Equalization  
Taxable Sales in California (published five times a year)  
Tax Information Bulletin (published quarterly)  
Environmental Fees Newsletter (published semiannually)  
Fuel Taxes Newsletter (published semiannually)

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**Publications Available at Cost**

Business Taxes Guide (print or CD-ROM)  
Property Taxes Law Guide (print or CD-ROM)  
Business Taxes Audit Manual  
Compliance Policy and Procedures Manual

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***To Obtain Publications***

Call: 800-400-7115

Taxpayers may order copies of Board of Equalization publications by calling our 800 Number Information Center. When ordering copies of individual regulations, rules, or periodicals, please specify the appropriate title, number or issue date.

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From voice phone 800-735-2922

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Internet: <http://www.boe.ca.gov>

Certain publications are available on the Board's home page on the Internet's World Wide Web. Taxpayers may also download order forms for publications and regulations.

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<sup>4</sup> Available in Spanish (22S) and Korean (22V)

## TAX CODE TABLE FOR SALES AND USE TAXES

Taxable Activity - Sales Tax Accounts	TAT	TAT ind.	Acct. Char	Notes
Regular Sales Tax	SR			
Regular Sales Tax(gasoline retailer)	SR			See Acct char for additional gas attributes
Regular Sales Tax(multiple locations in one tax area code)	SR	X		
Regular Sales Tax(multiple locations)	SR	Y		
Regular Sales Tax with sch b	SR	S		
Regular Sales Tax with sch b(multiple locations)	SR	Z		
Sales Tax Gasoline Distributor	SG			
Sales Tax Exemption	SJ			
Certificate of Registration Use Tax	SC			If voluntary will have Acct char code of 08
Consumer Use Tax	SU			
Consumer Use Tax w/spec rtn	SU	S		
Temporary	SR		1	
Arbitrary	SR		999	

Description	Acct. Char Code
Retailer who is temporary	01
Retailer who is part-time	02
Retailer who sells fuel	03
Retailer who sells fuel and is also a fuel broker	04
Retailer who sells fuel and is also a distributor	05
Retailer who sells at swap meets and temporary locations	06
Retailer who has warehouse locations	07
Retailer is voluntary filing(SC)	08
Retailer who is vehicle lessor	09
Retailer who has a manufacturer exemption	10
Government entity that has a permanent 30 day extension	11
Regulation 1802-Sales and Purchases \$500,000 and over	12
Use tax direct pay permit government	13
Use tax direct pay permit non-government	14
Arbitrary account	999

## TAX CODE TABLE FOR SALES AND USE TAXES

Account Analysis	Code	New Field
Sells Fuel	G	Acct char 03
Sells Fuel and is also a fuel broker	B	Acct char 04
Sells fuel and is also a fuel distributor	D	Acct char 05
Sells at swap meets	M	Acct char 06
Files a simplified return	S	Rtn-type-code 002
Warehouse locations	W	Acct char 07